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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,375	01/23/2004	Sergey N. Razumov	59036-040	4460
7590 11/17/2006 MCDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096			EXAMINER SHAH, AMEE A	
			ART UNIT 3625	PAPER NUMBER

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/762,375	RAZUMOV, SERGEY N.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Amee A. Shah	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

Claims 1-28 are pending in this action.

#### *Response to Arguments*

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Applicant's arguments filed September 28, 2006, regarding independent claims 1 and 16 and repeating the arguments made in applicant's submission filed June 19, 2006, have been again fully considered but are still not persuasive. Applicant argues that the provisional application (60/475,738 – hereafter referred to as the “'738 application”) on which Gosewehr (US 2004/0249724 – hereafter referred to as “Gosewehr”) relies “does not expressly disclose that in response to the recognized voice input, the animated guide of Gosewehr displays images assisting the customer in ordering the product during a product ordering session;” (Remarks, page 5); therefore Gosewehr's filing date is after Applicant's filing date and cannot be considered prior art (Remarks, pages 5-7). The Examiner disagrees.

The ‘738 application provides adequate support under 35 USC §112 for the subject matter of applicant's claims as well as Gosewehr. The ‘738 application discloses a display mechanism responsive to the recognized voice input for displaying images assisting the customer in ordering the product during a product ordering session, as well as the subject matter of the dependent claims. For example, on page 2, the ‘738 application discloses:

The animated guide can take many forms depending on the application. Applications could be implemented whereby the animated guide could take any form including, but not limited to, a cartoon figure or an animated video clip of a person. The animated

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guide would be designed to communicate verbally and/or through gestures with what the customer is seeing on the order screen at that particular time, and will offer directions, tips, advice, or any other type of graphical or audio assistance that the customer might need.

The '738 application further discloses, on page 5,

The animated guide could then welcome the customer to the business and prompt them to make ordering decisions specific to each system by numerous methods, including, but not limited to, touching parts of a touchscreen or voice recognition. The animated guide assists the customer or employee by giving directions, explaining features or other useful information about each part of a potential order, much as a normal employee would.

The display mechanism is the touchscreen monitor (page 4) which is responsive to the recognized voice input (pages 2 and 5) and which displays images to assist the customer (the images consist of the animated guide). By communicating with customers verbally, through gestures, and/or with graphical or audio assistance "with what the customer is seeing" and by offering directions, tips and advice "much as a normal employee would," the display is responsive to the voice input. Therefore, the '738 application reasonably provides adequate 35 U.S.C. §112, first paragraph support for Gosewehr (and applicant's claimed invention), and Gosewehr does qualify as prior art.

Applicant's newly submitted arguments filed September 28, 2006, regarding the '738 application not providing adequate support for dependent claims 2-15 and 17-28 (Remarks, pages 8-9), have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, new ground(s) of rejection are made as discussed below.

***Examiner Note***

Examiner cites particular pages, columns, paragraphs and/or line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Claim Rejections - 35 U.S.C. § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1 and 16 are rejected under 35 U.S.C. §102(e) as being anticipated by Gosewehr, US 2004/0247724 A1 (hereafter referred to as “Gosewehr”).**

Referring to claims 1 and 16. Gosewehr discloses a system and method for enabling a customer to order a required product, comprising: a voice recognition mechanism for recognizing a voice input, and a display mechanism responsive to the recognized voice input for

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displaying images assisting the customer in ordering the product during a product ordering session (¶¶0025 and 0040 – note the display mechanism touchscreen monitor is responsive to voice commands for displaying images to assist the customer).

**Claims 1, 2, 6-9, 14-16, 20-23 and 28 are rejected under 35 U.S.C. §102(e) as being anticipated by Vallerand, US 2004/0176963 A1, previously cited (hereafter referred to as “Vallerand”).**

Referring to claim 1. Vallerand discloses a system for enabling a customer to order a required product (*see, e.g.*, Abstract), comprising: a voice recognition mechanism for recognizing a voice input and a display mechanism responsive to the recognized voice input for displaying images assisting the customer in ordering the product during a product ordering session (¶¶0030, 0040-0042 and 0052 – note the display mechanism touchscreen monitor is responsive to voice commands for displaying images, such as photographs or illustrations to assist the customer in ordering the product).

Referring to claim 2. Vallerand discloses the system of claim 1 wherein the voice recognition mechanism and the display mechanism are elements of a product ordering terminal in a retail facility (¶0018 – note that the retail facility is the store).

Referring to claim 6. Vallerand discloses the system of claim 1 wherein the voice input includes a voice command associated with an image displayed by the display mechanism to request the display mechanism to display a screen linked to the displayed image (¶¶0041, 0051

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and 0052 – note that voice command associated with an image displayed can be “information” which causes the screen to display information relating to the product such as presentations).

Referring to claim 7. Vallerand discloses the system of claim 1 wherein the display mechanism is configured for displaying at least a first screen representing a first phase of the product ordering session and a second screen representing a second phase of the product ordering session (§§0041-0043, 0048-0051 and 0061 – note the first screen can be the login window or the welcome/menu screen and the second can be the welcome/menu screen, order information or technical support).

Referring to claim 8. Vallerand discloses the system of claim 7 wherein the display mechanism is responsive to the recognized customer's voice input to replace the first screen with the second screen (§§0041-0043, 0048-0051 and 0061).

Referring to claim 9. Vallerand discloses the system of claim 8 wherein the first screen and the second screen representing non-consecutive phases of the product ordering session (§§0041 and 0053 – note the second screen is the technical support).

Referring to claim 14. Vallerand discloses the system of claim 1 wherein voice commands recognizable by the voice recognition mechanism during the product ordering session include product keywords for defining products available for ordering (§§0040, 0045-0046 – note the keyword is the SKU or barcode).

Referring to claims 16, 20-23, 26 and 28. All of the limitations in method claims 16, 20-23, 26 and 28 are closely parallel to the limitations of system claims 1, 6-9, 12 and 14, analyzed above and are rejected on the same bases.

**Claims 1, 7, 10-12, 16, 21 and 24-26 are rejected under 35 U.S.C. §102(e) as being anticipated by Sturr, JR, US 2004/0143512 A1 (hereafter referred to as “Sturr”).**

Referring to claim 1. Sturr discloses a system for enabling a customer to order a required product (*see, e.g.*, Abstract), comprising: a voice recognition mechanism for recognizing a voice input and a display mechanism responsive to the recognized voice input for displaying images assisting the customer in ordering the product during a product ordering session (Figs. 1-13 and ¶¶0025 and 0027 – note the display mechanism touchscreen monitor is responsive to voice commands through voice recognition and response systems and displays images such as a menu in the form of a wheel with spokes to assist the customer in ordering the product).

Referring to claim 7. Sturr discloses the system of claim 1 wherein the display mechanism is configured for displaying at least a first screen representing a first phase of the product ordering session and a second screen representing a second phase of the product ordering session (Figs. 1-13 and ¶¶0027 and 0031-0033 – note the first screen can be Fig. 1 and the second can be Fig. 2).



Referring to claim 10. Sturr discloses the system of claim 7 wherein the voice recognition mechanism is configured to recognize a first set of voice commands when the first screen is displayed, and a second set of voice commands when the second screen is displayed (Figs. 1-13 and ¶¶0027 and 0031-0033 – note the commands are the various options noted on each screen, e.g. in Fig. 4, the commands include “back to burger combinations,” “no cheese,” “burger,” etc., and in Fig. 5, the commands include “back to combinations,” “orange,” “iced tea,” etc.).

Referring to claim 11. Sturr discloses the system of claim 10, wherein the first set of voice commands differs from the second set of voice commands (Figs. 1-13 and ¶¶0027 and 0031-0033).

Referring to claim 12. Sturr discloses the system of claim 1 wherein the display mechanism is configured to display graphical elements indicating voice commands available in a particular phase of the product ordering session (Figs. 1-13 and ¶¶0027 and 0031-0033 - note the commands available are the various options noted on each screen, e.g. in Fig. 4, the commands include “back to burger combinations,” “no cheese,” “burger,” etc., and in Fig. 5, the commands include “back to combinations,” “orange,” “iced tea,” etc.).

Referring to claims 16, 21 and 24-26. All of the limitations in method claims 16, 21 and 24-26 are closely parallel to the limitations of system claims 1, 7 and 10-12, analyzed above and are rejected on the same bases.

***Claim Rejections - 35 U.S.C. § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 3-5 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vallerand in view of Mannik et al., US 2004/0122731 A1 (hereafter referred to as "Mannik").**

Referring to claims 3 and 4. Vallerand discloses the system of claim 1 wherein the customer can view images of products and all or any of the commands in the system can be activated by voice recognition mechanism (§§0041 and 0042), but does not disclose wherein the display mechanism is configured for displaying a control element for enabling the customer to modify a displayed image in a required manner when the customer selects the control element, such as by voice recognition. Mannik, in the same field of endeavor and/or pertaining to the same issue, discloses a system and method for displaying an interactive electronic representation of a static media object such as a catalog including wherein the display mechanism is configured for displaying a control element for enabling the customer to modify a displayed image in a required manner when the customer selects the control element, such as by voice recognition (Figs. 5 and 6 and §§0096 and 0146 – note that a consumer may use voice recognition commands to retrieve an enlarged view of a product).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the system of Vallerand to include the teachings of Mannik to allow for the customer, through the display or voice recognition, to modify the displayed image, such as to enlarge it. Doing so would allow for a customer to retrieve more information on a product of interest in a less time consuming manner, thereby increasing customer satisfaction and the effectiveness of marketing, as suggested by Mannik (§0007).

Referring to claim 5. Vallerand in view of Mannik discloses the system of claim 3 wherein the voice input includes a voice command for requesting the display mechanism to switch to a desired screen which is not available by selecting the displayed control element (Vallerand, §§0041 and 0053 – note the voice command is technical support).

Referring to claims 17-19. All of the limitations in method claims 17-19 are closely parallel to the limitations of system claims 3-5, analyzed above and are rejected on the same bases.

**Claims 13 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vallerand or Gosewehr or Sturr in view of Elston et al., US 2002/0143655 A1 (hereafter referred to as “Elston”).**

Referring to claim 13 and 27. Gosewehr, Vallerand, and Sturr disclose the system and method of claims 1 and 16, as discussed above, but do not disclose voice commands recognizable by the voice recognition mechanism during the product ordering session to include point-of-sale keywords for defining points of sales for delivery of an ordered product. Elston, in

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the same field of endeavor and/or pertaining to the same issue, discloses a remote ordering system using voice recognition software to order products and services, including having voice commands recognizable by the voice recognition mechanism during the product ordering session include point-of-sale keywords for defining points of sales for delivery of an ordered product (¶¶0017, 0142, 0189 and 0322 – note the delivery is to customer-selected location at desired time).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the systems of Gosewehr, Vallerand and Sturr to include the teachings of Elston to allow for voice commands recognizable by the voice recognition mechanism during the product ordering session to include point-of-sale keywords for defining points of sales for delivery of an ordered product. Doing so would provide more convenience for customer by allowing them to designation where and when they desire the items ordered.

**Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vallerand or Gosewehr or Sturr in view of Garudadri, US 6,681,207 B2 (hereafter referred to as “Garudadri”).**

Referring to claim 15. Gosewehr, Vallerand and Sturr disclose the system of claim 1, but do not disclose a voice recording mechanism for recording the voice input to accumulate voice information for adjusting the voice recognition mechanism. Garudadri, in the same field of endeavor and/or pertaining to the same issue, discloses a method and system that improves voice recognition by improving storage of voice recognition templates, including a voice recording

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mechanism for recording the voice input for the intended use of accumulating voice information for adjusting the voice recognition mechanism (*see at least* Abstract).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the systems of Gosewehr, Vallerand and Sturr to include the teachings of Garudadri to allow for a voice recording mechanism for the intended use of adjusting the voice recognition mechanism. Doing so would provide enhanced accuracy of the voice recognition mechanism, as suggested by Garudadri (col. 1, lines 64-66), thereby leading to more accurate understanding of the customer's desires and increasing customer satisfaction.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Attar et al., US 2004/0030596, discloses a method for communicating data by displaying fixed and/or animated images in response to user input automatically through voice recognition (*see, e.g.*, pages 1-4).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ameer A. Shah whose telephone number is 571-272-8116. The examiner can normally be reached on Mon.-Fri. 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA), or 571-272-1000.

AAS

November 6, 2006



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